

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

\*\*\*\*\*

FEDERAL TRADE COMMISSION, et al.,

Plaintiffs,

v.

STAPLES, INC. and OFFICE DEPOT, INC.,

Defendants.

\*

\*

\*

\*

\*

\*

\*

\*

\*

\*

\*

CASE NO.: 1:16-mc-91068

UNITED STATES DISTRICT COURT  
DISTRICT OF COLUMBIA

Case No. 1:15-cv-02115 (EGS)

**DISCOVERY MATTER**

\*\*\*\*\*

**OFFICE DEPOT, INC.'S MOTION TO COMPEL DISCOVERY FROM  
NON-PARTY CRA INTERNATIONAL, INC.**

Office Depot, Inc. ("Office Depot"), by its counsel, hereby moves this Court, pursuant to Federal Rules of Civil Procedure 37 and 45 for an order compelling CRA International, Inc. ("CRA") to comply with Office Depot's subpoena dated February 3, 2016 (the "Subpoena"). The grounds for this motion are set forth in the accompanying memorandum, the Affidavit of Brian Spahn, and the exhibits attached thereto. Specifically, Office Depot respectfully requests the following relief from the Court:

- (a) An Order compelling CRA to produce documents responsive to the Subpoena served by Office Depot related to the pending litigation captioned *Federal Trade Commission, et al., v. Staples, Inc., et al.*, 15-cv-02115(EGS), in the District Court for the District of Columbia, as modified and narrowed in good faith by Office Depot, no later than March 15, 2016, at the office of Cooke Clancy & Gruenthal LLP in Boston, MA;

- (b) An Order awarding Office Depot a Rule 30(b)(6) deposition of CRA at a time and place to be agreed by Office Depot and CRA, but no later than March 21, 2016; and
- (c) Granting such other and further relief as the Court deems just and proper.

Respectfully submitted

OFFICE DEPOT, INC.

By its attorneys,

s/ Paula M. Bagger

Paula M. Bagger (BBO No. 547703)

COOKE CLANCY & GRUENTHAL LLP

One Liberty Square

Boston, MA 02109

Phone: (617) 428-6800

Fax: (617) 428-6868

[pbagger@ccg-law.com](mailto:pbagger@ccg-law.com)

s/ Eric J. Wilson

Eric J. Wilson (admission *pro hac vice* pending)

Wisconsin Bar No. 1047241

Brian C. Spahn (admission *pro hac vice* pending)

Wisconsin Bar No. 1060080

David R. Konkel (admission *pro hac vice* pending)

Wisconsin Bar. No. 1097244

780 North Water Street

Milwaukee, WI 53202-3590

Phone: (414) 273-3500

Fax: (414) 273-5198

[EWilson@gklaw.com](mailto:EWilson@gklaw.com)

Dated: March 4, 2016

**LOCAL RULE 7.1(a)(2) and 37.1(b) CERTIFICATION**

Pursuant to Local Rules 7.1(a)(2) and 37.1(b), counsel for Office Depot reasonably and in good faith conferred with CRA's counsel in an effort to resolve or narrow the present discovery dispute, but were unable to resolve or narrow the issues raised in this motion. Specifically, Office Depot's counsel, Brian Spahn, spoke on the telephoen with CRA's in-house counsel, Jonathan Yellin, on February 25, 2016, who reiterated that CRA objects to the subpoena and refused to provide any responsive information. In addition, counsel for Office Depot, Brian Spahn, and CRA's in-house counsel, Jonathan Yellen, have communicated via email and telephone on a numbe of other occassions as detailed in the Affidavit of Brian Spahn and attachments thereto. to reach an Counsel for Office Depot hereby certifies that they conferred with counsel for CRA on February 25, 2016, and were unable to resolve or narrow the issues raised in this motion.

s/ Eric J. Wilson  
Eric J. Wilson

**CERTIFICATE OF SERVICE**

I, Paula M. Bagger, hereby certify that on March 4, 2016 I caused the foregoing document to be served: electronically on all parties using the EM/ECF system, on CRA International, Inc., by hand delivery, and on all other parties not identified on the Notice of Electronic Filing by overnight delivery service.

s/ Paula M. Bagger  
Paula M. Bagger